



# How do you own your property?

Knowing how you own your property is one of the first steps in estate planning. Forms of property ownership can affect how and when property passes to your spouse, your children, and others with an interest in your estate.

## Classes of Property

Property is divided into two classes: real and personal. *Real property* consists of land and certain kinds of interests in land. Real property includes standing timber and structures erected on the land, such as a house, fence or garage. *Personal property* is everything that is not real property, such as cash, household items, goods, cars, jewelry, bank accounts, stocks, and bonds.

## Making an Inventory

Before you see an attorney about writing your will, make a list of the real and personal property that will pass to your heirs upon your death. In making your list, you need to know what property can be passed on to others under the terms of your will. You may own interests in property that you cannot give away under your will because the law has already determined who will own the property at your death. Whether you can give away property under the terms of your will depends upon the answers to two questions:

- Who holds title to the property?
- What rights do you have in the property?

## Who holds title to the property?

*Holding title* means you have rights of ownership. Ownership or title is shown on a deed, certificate, bill of sale, contract, will, or other document. For real property, the document of title must be registered with the register of deeds in the county where the property is located. Ownership of personal property may be shown by documents such as automobile titles, receipts, contracts, bills of sale, bank records, and stock certificates. Without these

documents, ownership of personal property may be difficult to prove. In some cases, possession of untitled personal property is proof of ownership.

You may hold title to property by yourself or with other people. If your name is the only name on the document of title, you are the *sole owner* of the property. If your name and someone else's name appear on the document of title, your ownership rights may be limited by the rights of the other owner. The document of title determines the ownership rights of each owner.

The document of title may create *consecutive interests* in the same property. This means that certain rights of an owner begin after the rights of another owner have ended. Or the document of title may create *concurrent interests*, where the rights of each owner occur at the same time. Consecutive interests and concurrent interests may take various forms, giving different property rights to the owners.

## What are your property rights?

**Sole ownership.** This is the simplest form of property ownership. One person has all present and future power to use, control, sell, or otherwise dispose of the property. If you are sole owner, you may transfer the entire property under the terms of your will. If you do not have a will, your property will be transferred to the people who are entitled to take your property under North Carolina law. For more information, see estate planning note *Where There Is a Will There Is a Way* (AG-688-02).

**Consecutive interest.** You may own a consecutive interest in property. This means your interest arises either before or after the interest of someone else. A *life estate* and a *remainder* are examples of consecutive interests. If you own a life estate, you are called the *life tenant*. You have the right to possess and

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